

ORDINANCE NO. _____, SERIES 2007

AN ORDINANCE AMENDING AND RE-ENACTING
SUBSECTION 132.03(A)(19) OF THE
LOUISVILLE/JEFFERSON COUNTY METRO
GOVERNMENT ("LMCO") CODE OF
ORDINANCES RELATING TO PANHANDLING.

Sponsored By: Councilmen Tandy and Unseld

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE
LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT [THE METRO
COUNCIL] AS FOLLOWS:

SECTION I. LMCO subsection 132.03(A)(19) is hereby amended and reenacted as follows:

(19) ~~No person shall wander abroad and beg, nor go about from door to door of private homes or commercial and business establishments, or places himself in or on any public way or public place to beg or receive alms for himself, in interference of pedestrian or vehicular traffic, or in association with any act posing a threat to public safety;~~ (1) The Metro Council finds that the increase in aggressive solicitation throughout Metro Louisville has become extremely disturbing and disruptive to residents and businesses, and has contributed not only to the loss of access and enjoyment of public places, but also to an enhanced fear, intimidation and disorder.

(a) Aggressive solicitation usually includes approaching or following pedestrians, repetitive soliciting despite refusals, the use of abusive or profane language to cause fear and intimidation, unwanted physical contact, or the intentional blocking of vehicular and pedestrian traffic. The Metro Council further finds that the presence of individuals who solicit money from persons at or near banks, automated teller machines, parking garages, outdoor public restrooms, outdoor dining areas, school buildings, and

public transportation facilities or vehicles is especially troublesome because of the enhanced fear of crime in those confined environments. Motorists also find themselves confronted by persons seeking money who: (1) without permission, wash their automobile windows at traffic intersections, despite explicit indications by drivers not to do so, with such activity carrying an implicit threat to both persons and property; and (2) stand in or near the street without proper safety equipment, which not only endangers the solicitor's life, but the life and property of the motorist. In addition, people driving or parking on Metro Louisville streets frequently find themselves faced with persons seeking money by offering to open car doors or locate parking spaces. Finally, people entering public buildings are frequently confronted with persons blocking the entrance in order to solicit funds, which not only can be a hindrance and distraction, but creates a bottleneck in an area where it is essential that there be a free flow of pedestrian traffic.

(b) It is not the purpose of this Ordinance to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in other constitutionally protected activity. Rather, its goal is to protect citizens from the fear and intimidation accompanying certain kinds of solicitations that become an unwelcome and overwhelming presence in Metro Louisville.

(2) No person shall engage in panhandling in any of the following circumstances:

(a) In an aggressive manner in any public place.

(b) On private or residential property after having been asked to refrain from panhandling by the owner or other person lawfully in possession of such property.

(c) Within twenty (20) feet of an automated teller machine. Provided, however, that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the facility.

(d) When a person is an operator or occupant of a motor vehicle on a public street in exchange for blocking, occupying, or reserving a public parking space, or directing the operator or occupant to a public parking space.

(e) When a person is an operator or occupant of a motor vehicle on a public street unless doing so in accordance with LMCO Chapter 117 and all sections thereof.

(f) In any public transportation vehicle or facility, or within twenty (20) feet of any bus stop, or in any public parking lot or structure.

(g) Within twenty (20) feet of any outdoor dining area or outdoor merchandise area, if such areas are in active use at the time.

(h) Within twenty (20) feet of any school building or school playground when school is in session or school related activities are taking place on the premises.

(i) Within twenty (20) feet of an entrance to any public restroom.

(j) Within six (6) feet of an entrance to any building open to the public.

(k) After dark by means of verbal communication.

(m) *Definitions.*

(a) After dark means from one-half hour after sunset until one-half hour before sunrise. The times of sunset and sunrise shall be as set forth daily in The Courier-Journal.

(b) Aggressive manner means and includes:

(1) Intentionally or recklessly touching or causing physical contact with another person without that person's consent in the course of soliciting;

(2) Intentionally or recklessly blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

(3) Intentionally or recklessly using obscene or abusive language or gestures: (i) intended to or likely to cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or (ii) words intended to or reasonably likely to intimidate the person into responding affirmatively to the solicitation; or

(4) Persisting in closely following or approaching the person being solicited, with the intent of asking that person for money or other things of value, after the person has been solicited and has informed the solicitor by words or

conduct that such person does not want to be solicited or does not want to give money or any thing of value to the solicitor.

(c) Automated teller machine shall mean a device, linked to a financial institution's account record which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

(d) Automated teller machine facility shall mean the area comprised of one (1) or more automatic teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

(e) Financial Institution shall mean any state bank, out-of-state bank, national bank, or trust company, as those terms are defined in KRS 287.010, or credit union, as defined in KRS 290.005.

(f) Public Place shall mean a place to which the public or a substantial group of persons has access, including but not limited to any street, sidewalk, highway, parking lot, plaza, transportation facility, school, place of amusement, park, playgrounds, fairgrounds and sporting facilities.

(g) Soliciting (solicit) or Panhandling (panhandle) for purposes of this subsection are interchangeable and mean requesting an immediate donation of money or other thing of value

from another person regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be without limitation, by the spoken, written, or printed word, or by other means of communication. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a solicitation for the purpose of this chapter.

(3) *Severability.* Each section and provision of this Ordinance is hereby declared to be independent sections and provisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of said Ordinance, or the application thereof to any person or circumstance, is held to be invalid, the remaining sections or provisions and the application of such sections or provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

(4) *Penalties.* Each act of panhandling prohibited by this subsection shall constitute a separate offense, and be punishable by a fine in an amount not to exceed \$250.00, or imprisonment for a period not to exceed ninety (90) days, or both.

SECTION II. This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Rick Blackwell
President of the Metro Council

Jerry E. Abramson
Mayor

Approved: _____
Date

APPROVED AS TO FORM AND LEGALITY:
Irv Maze
Jefferson County Attorney

BY _____
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